

**SICHENZIA ROSS FRIEDMAN FERENCE LLP**  
ATTORNEYS AT LAW

July 9, 2008

Via Federal Express

Honorable Joseph L. Tauro  
United States District Court  
District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, Massachusetts 02210

JUL 10 P 3 40

Re: *Kashner Davidson Securities Corp., et al. vs.*  
*Steven Mscisz, et al., Case No. 05-CV-11433-JLT*

Dear Judge Tauro:

This office represents Plaintiffs Kashner Davidson Securities Corp. ("KDSC"), Victor Kashner, Matthew Meister, and Timothy Varchetto in the above-referenced matter.

On June 27, 2008, the United States Court of Appeal for the First Circuit ("USCA") issued its Decision and Judgment reversing the Court's Order confirming the arbitration award entered against Defendants in the arbitration proceeding before the National Association of Securities Dealers, Inc.<sup>1</sup> entitled *Kashner Davidson Securities Corp. v. Steven Mscisz, Mark Mscisz, and Lynda Mscisz v. Victor Kashner, Matthew Meister, and Timothy Varchetto*, FINRA No. 04-03793 (hereinafter the "Arbitration"). The USCA remanded the matter back to this Court for an the entry of an order vacating the arbitration award.

In its Decision, the USCA vacated the arbitration award because it found that the Arbitration Panel has manifestly disregarded the law when it dismissed Defendants' Counterclaims and Third-Party Claims as a sanction in violation of the sanction rule contained in the FINRA Code of Arbitration Procedure.

Accordingly, when the Court issues its order vacating the arbitration award, Plaintiffs respectfully request that the Court remand the matter back to FINRA and direct FINRA to reconstitute the original Arbitration Panel (Arthur J. Giacomarra, Esq., Douglas R. Gray, J.D., and Patrick W. McKeon, Esq.) under the previously existing Case No. 04-03793 for further proceedings consistent with the USCA's Decision.

Respectfully submitted,

  
Richard J. Babnick Jr.

cc: William J. Corbett, Esq.  
Howard M. Smith, Esq.

<sup>1</sup> After its merger with the New York Stock Exchange, the National Association of Securities Dealers, Inc. changed its name to the Financial Industry Regulatory Authority ("FINRA").

**SRFF**